

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

2005 JUN 24 P 10:45

CIVIL ACTION NO. 1-05-CV-10479-FDS  
DISTRICT OF MASSACHUSETTS

IN RE:

GEORGE J. VASILIADES  
DEBTOR

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GEORGE J. VASILIADES  
APPELLANT

v.

KATHLEEN DWYER, CHAPTER 7 TRUSTEE OF GEORGE J. VASILIADES  
APPELLEE

REPLY BRIEF OF GEORGE J. VASILIADES

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June 23, 2005

George Vasiliades, the Appellant in the above captioned appeal submits the following reply brief.

On or about June 15, 2005, the Appellee filed her brief.

The Debtor wishes to address one issue raised in the Appellee's brief.

On page 13, paragraphs 3 and 4 of the Appellee's brief, she argues that the prerequisites to estoppel are not present and that any estoppel argument has been waived as a result of failure to plead same as an affirmative defense pursuant to Federal Rule of Civil Procedure 8.

On page 28 of the Appellant's brief, the following sentence appears:

"The Court should be estopped (emphasis added) from making such a finding based upon its approval of three amendments to the Schedules and/or Statement of Financial Affairs."

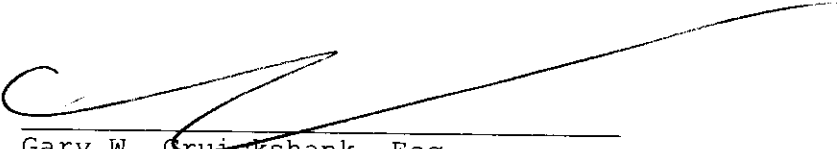
This was an inadvertent generic utilization of a doctrine which is not applicable. The word prevented rather than estopped should have been utilized. The Appellant was not attempting to utilize the doctrine of estoppel. The position of the Appellant is that the various amendments to the Schedules and Statement of Financial Affairs cured any deficiency in the original documents. Therefore, as a matter of law, he was entitled to his Chapter 7 discharge as a matter of law. Estoppel is not an argument that is being utilized by the Appellant and therefore did not need to be affirmatively pleaded.

CONCLUSION

For the reason set forth in the brief, the decision of the Bankruptcy Court should be reversed and the Appellant awarded his Chapter 7 discharge.

Respectfully submitted,  
George J. Vasiliades  
By his Successor Counsel,


Dated: June 23, 2005

  
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CERTIFICATE OF SERVICE

I, Gary W. Cruickshank, hereby certify that a copy of the foregoing Reply Brief has been served, unless otherwise noted, via regular United States mail, postage prepaid, upon Kathleen Dwyer, Atty., MacLean, Holloway, Doherty, Ardiffe & Morse, Chapter 7 Trustee, 8 Essex Center Drive, Peabody, Massachusetts 01960 (electronically).

Dated: June 23, 2005

  
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Gary W. Cruickshank, Esq.